

Hon. John C. Coughenour

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

KAREN D. SMITH,

Plaintiff,

vs.

THE BANK OF NEW YORK MELLON FKA  
THE BANK OF NEW YORK, AS TRUSTEE  
FOR THE BENEFIT OF THE  
CERTIFICATEHOLDERS OF THE CWABS  
INC., ASSET-BACKED CERTIFICATES,  
SERIES 2007-SD1, and NEW PENN  
FINANCIAL LLP, d/b/a SHELLPOINT  
MORTGAGE SERVICING, LLC, MTC  
FINANCIAL INC., DBA TRUSTEE CORPs,  
and MALCOLM & CISNEROS, A LAW  
CORPORATION,

Defendants.

Case No. 2:19-cv-00538-JCC

**ANSWER OF DEFENDANTS THE  
BANK OF NEW YORK MELLON AND  
NEWREZ LLC TO PLAINTIFF'S  
SECOND AMENDED COMPLAINT**

Defendants The Bank of New York Mellon fka The Bank of New York, as Trustee for  
the Benefit of the Certificateholders of the CWABS Inc., Asset-Backed Certificates, Series  
2007-SD1 ("The Bank of New York Mellon") and NewRez LLC fka New Penn Financial, LLC  
dba Shellpoint Mortgage Servicing (erroneously sued as "New Penn Financial LLP, d/b/a  
Shellpoint Mortgage Servicing, LLC") ("Shellpoint") (collectively, "Defendants") hereby  
answer the Second Amended Complaint of Karen D. Smith ("Plaintiff") as follows:

Answer of Defendants The Bank of New York Mellon  
and NewRez LLC to Second Amended Complaint - 1

Donald G. Grant, P.S.  
Attorneys and Counselors at Law  
Washougal Town Square, Ste 245  
1700 Main Street  
Washougal, WA 98671  
TEL: (360) 694-8488  
FAX: (360) 694-8688  
E-MAIL: [don@dongrantps.com](mailto:don@dongrantps.com)

**PARTIES, JURISDICTION AND VENUE**

1. Answering paragraph 1 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

2. Answering paragraph 2 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

3. Answering paragraph 3 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

4. Answering paragraph 4 of the Complaint, Defendants deny the allegations.

5. Answering paragraph 5 of the Complaint, Defendants deny the allegations.

6. Answering paragraph 6 of the Complaint, Defendants deny the allegations.

7. Answering paragraph 7 of the Complaint, Defendants deny the allegations.

8. Answering paragraph 8 of the Complaint, Defendants admit Plaintiff was in default when Shellpoint began servicing the mortgage loan. Defendants deny the remaining allegations.

9. Answering paragraph 9 of the Complaint, Defendants deny the allegations.

10. Answering paragraph 10 of the Complaint, Defendants deny the allegations.

11. Answering paragraph 11 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

12. Answering paragraph 12 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

1           13.     Answering paragraph 13 of the Complaint, Defendants are without sufficient  
2 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
3 denies them.

4           14.     Answering paragraph 14 of the Complaint, Defendants are without sufficient  
5 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
6 denies them.

7           15.     Answering paragraph 15 of the Complaint, Defendants are without sufficient  
8 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
9 denies them.

10          16.     Answering paragraph 16 of the Complaint, Defendants are without sufficient  
11 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
12 denies them.

13          17.     Answering paragraph 17 of the Complaint, Defendants are without sufficient  
14 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
15 denies them.

16          18.     Answering paragraph 18 of the Complaint, Defendants are without sufficient  
17 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
18 denies them.

19          19.     Answering paragraph 19 of the Complaint, Defendants are without sufficient  
20 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
21 denies them.

22          20.     Answering paragraph 20 of the Complaint, Defendants are without sufficient  
23 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
24 denies them.

21. Answering paragraph 21 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

22. Answering paragraph 22 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

23. Answering paragraph 23 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

24. Answering paragraph 24 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

25. Answering paragraph 25 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

26. Answering paragraph 26 of the Complaint, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations, and on that basis, denies them.

27. Answering paragraph 27 of the Complaint, Defendants admit the allegations.

28. Answering paragraph 28 of the Complaint, Defendants admit the venue is proper, and the property is located in King County, Washington, but are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations, and on that basis, denies them.

## FACTS

29. Answering paragraph 29 of the Complaint, Defendants admit the allegations.

1           30.     Answering paragraph 30 of the Complaint, Defendants are without sufficient  
2 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
3 denies them.

4           31.     Answering paragraph 31 of the Complaint, Defendants are without sufficient  
5 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
6 denies them.

7           32.     Answering paragraph 32 of the Complaint, Defendants are without sufficient  
8 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
9 denies them.

10          33.     Answering paragraph 33 of the Complaint, Defendants admit the allegations.

11          34.     Answering paragraph 34 of the Complaint, Defendants are without sufficient  
12 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
13 denies them.

14          35.     Answering paragraph 35 of the Complaint, Defendants are without sufficient  
15 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
16 denies them.

17          36.     Answering paragraph 36 of the Complaint, Defendants are without sufficient  
18 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
19 denies them.

20          37.     Answering paragraph 37 of the Complaint, Defendants are without sufficient  
21 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
22 denies them.

23          38.     Answering paragraph 38 of the Complaint, Defendants are without sufficient  
24 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
25 denies them.

1           39.     Answering paragraph 39 of the Complaint, Defendants are without sufficient  
2 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
3 denies them.

4           40.     Answering paragraph 40 of the Complaint, Defendants admit the allegations.

5           41.     Answering paragraph 41 of the Complaint, Defendants are without sufficient  
6 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
7 denies them.

8           42.     Answering paragraph 42 of the Complaint, Defendants are without sufficient  
9 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
10 denies them.

11           43.     Answering paragraph 43 of the Complaint, Defendants are without sufficient  
12 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
13 denies them.

14           44.     Answering paragraph 44 of the Complaint, Defendants are without sufficient  
15 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
16 denies them.

17           45.     Answering paragraph 45 of the Complaint, Defendants are without sufficient  
18 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
19 denies them.

20           46.     Answering paragraph 46 of the Complaint, Defendants admit the allegations.

21           47.     Answering paragraph 47 of the Complaint, Defendants are without sufficient  
22 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
23 denies them.

24           48.     Answering paragraph 48 of the Complaint, Defendants are without sufficient  
25 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
26 denies them.

1           49.     Answering paragraph 49 of the Complaint, Defendants are without sufficient  
2 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
3 denies them.

4           50.     Answering paragraph 50 of the Complaint, Defendants are without sufficient  
5 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
6 denies them.

7           51.     Answering paragraph 51 of the Complaint, Defendants are without sufficient  
8 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
9 denies them.

10          52.     Answering paragraph 52 of the Complaint, Defendants are without sufficient  
11 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
12 denies them.

13          53.     Answering paragraph 53 of the Complaint, Defendants are without sufficient  
14 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
15 denies them.

16          54.     Answering paragraph 54 of the Complaint, Defendants are without sufficient  
17 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
18 denies them.

19          55.     Answering paragraph 55 of the Complaint, Defendants are without sufficient  
20 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
21 denies them.

22          56.     Answering paragraph 56 of the Complaint, Defendants are without sufficient  
23 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
24 denies them.

1           57.     Answering paragraph 57 of the Complaint, Defendants are without sufficient  
2 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
3 denies them.

4           58.     Answering paragraph 58 of the Complaint, the document speaks for itself and no  
5 response is required. them.

6           59.     Answering paragraph 59 of the Complaint, Defendants admit the allegations.

7           60.     Answering paragraph 60 of the Complaint, Defendants are without sufficient  
8 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
9 denies them.

10          61.     Answering paragraph 61 of the Complaint, Defendants are without sufficient  
11 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
12 denies them.

13          62.     Answering paragraph 62 of the Complaint, Defendants are without sufficient  
14 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
15 denies them.

16          63.     Answering paragraph 63 of the Complaint, Defendants are without sufficient  
17 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
18 denies them.

19          64.     Answering paragraph 64 of the Complaint, Defendants are without sufficient  
20 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
21 denies them.

22          65.     Answering paragraph 65 of the Complaint, the referenced document speaks for  
23 itself and no response is required. Defendants are without sufficient knowledge or information  
24 to form a belief as to the truth of these allegations, and on that basis, denies them.

25          66.     Answering paragraph 66 of the Complaint, Defendants admit the allegations.

26          67.     Answering paragraph 67 of the Complaint, Defendants admit the allegations.  
27  
28



70. Answering paragraph 70 of the Complaint, Defendants deny the allegations.

72. Answering paragraph 72 of the Complaint, Defendants deny the allegations.

74. Answering paragraph 74 of the Complaint, Defendants deny the allegations.

76. Answering paragraph 76 of the Complaint, the document speaks for itself and no response is required.

77. Answering paragraph 77 of the Complaint, the documents speak for themselves and no response is required.

78. Answering paragraph 78 of the Complaint, the document speaks for itself and no response is required.

79. Answering paragraph 79 of the Complaint, the document speaks for itself and no response is required.

80. Answering paragraph 80 of the Complaint, the document speaks for itself and no response is required.

81. Answering paragraph 81 of the Complaint, this paragraph is not directed at Defendants and no response is required.

82. Answering paragraph 82 of the Complaint, this paragraph is not directed at Defendants and no response is required.

1           83.     Answering paragraph 83 of the Complaint, this paragraph is not directed at  
2 Defendants and no response is required.

3           84.     Answering paragraph 84 of the Complaint, this paragraph is not directed at  
4 Defendants and no response is required.

5           85.     Answering paragraph 85 of the Complaint, this paragraph is not directed at  
6 Defendants and no response is required.

7           86.     Answering paragraph 86 of the Complaint, this paragraph is not directed at  
8 Defendants and no response is required.

9           87.     Answering paragraph 87 of the Complaint, this paragraph is not directed at  
10 Defendants and no response is required.

11           88.     Answering paragraph 88 of the Complaint, this paragraph is not directed at  
12 Defendants and no response is required.

13           89.     Answering paragraph 89 of the Complaint, this paragraph is not directed at  
14 Defendants and no response is required.

15           90.     Answering paragraph 90 of the Complaint, this paragraph is not directed at  
16 Defendants and no response is required.

17           91.     Answering paragraph 91 of the Complaint, this paragraph is not directed at  
18 Defendants and no response is required.

19           92.     Answering paragraph 92 of the Complaint, this paragraph is not directed at  
20 Defendants and no response is required.

21           93.     Answering paragraph 93 of the Complaint, this paragraph is not directed at  
22 Defendants and no response is required.

23           94.     Answering paragraph 94 of the Complaint, this paragraph is not directed at  
24 Defendants and no response is required.

25           95.     Answering paragraph 95 of the Complaint, this paragraph is not directed at  
26 Defendants and no response is required.  
27  
28

1           96.     Answering paragraph 96 of the Complaint, this paragraph is not directed at  
2 Defendants and no response is required.

3           97.     Answering paragraph 97 of the Complaint, this paragraph is not directed at  
4 Defendants and no response is required.

5           98.     Answering paragraph 98 of the Complaint, this paragraph is not directed at  
6 Defendants and no response is required.

7           99.     Answering paragraph 99 of the Complaint, this paragraph is not directed at  
8 Defendants and no response is required.

9           100.    Answering paragraph 100 of the Complaint, this paragraph is not directed at  
10 Defendants and no response is required.

11           101.   Answering paragraph 101 of the Complaint, this paragraph is not directed at  
12 Defendants and no response is required.

13           102.   Answering paragraph 102 of the Complaint, this paragraph is not directed at  
14 Defendants and no response is required.

15           103.   Answering paragraph 103 of the Complaint, Defendants incorporate by reference  
16 its responses to the preceding paragraphs on the Complaint as though fully set forth herein.

17           104.   Answering paragraph 104 of the Complaint, Defendants deny the allegations.

18           105.   Answering paragraph 105 of the Complaint, this paragraph contains a legal  
19 conclusion and no response is required.

20           106.   Answering paragraph 106 of the Complaint, Defendants are without sufficient  
21 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
22 denies them.

23           107.   Answering paragraph 107 of the Complaint, Defendants admits that Plaintiff is  
24 making these allegations, but denies violating any law referenced in paragraph 107 or any of its  
25 subparts, including RCW sections 19.86 and 61.24.

26           108.   Answering paragraph 108 of the Complaint, Defendants deny the allegations.  
27  
28

1 109. Answering paragraph 109 of the Complaint, Defendants deny the allegations.

2 110. Answering paragraph 110 of the Complaint, Defendants deny the allegations.

3 111. Answering paragraph 111 of the Complaint, Defendants deny the allegations.

4 112. Answering paragraph 112 of the Complaint, Defendants deny the allegations.

5 113. Answering paragraph 113 of the Complaint, Defendants deny the allegations.

6 114. Answering paragraph 114 of the Complaint, the website speaks for itself and no  
7 response is required.

8 115. Answering paragraph 115 of the Complaint, the website speaks for itself and no  
9 response is required.

10 116. Answering paragraph 116 of the Complaint, Defendants are without sufficient  
11 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
12 denies them.

13 117. Answering paragraph 117 of the Complaint, Defendants admit that BONY is the  
14 trustee of CWABS Inc., Asset-Backed Certificates Series 2007-SD1 trust, but denies the  
15 remaining allegations.

16 118. Answering paragraph 118 of the Complaint, the report speaks for itself and no  
17 response is required.

18 119. Answering paragraph 119 of the Complaint, Defendants deny the allegations.

19 120. Answering paragraph 120 of the Complaint, Defendants are without sufficient  
20 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
21 denies them.

22 121. Answering paragraph 121 of the Complaint, Defendants are without sufficient  
23 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
24 denies them.  
25  
26  
27  
28

1           122. Answering paragraph 122 of the Complaint, Defendants are without sufficient  
2 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
3 denies them.

4           123. Answering paragraph 123 of the Complaint, Defendants deny the allegations.

5           124. Answering paragraph 124 of the Complaint, Defendants are without sufficient  
6 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
7 denies them.

8           125. Answering paragraph 125 of the Complaint, Defendants are without sufficient  
9 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
10 denies them.

11           126. Answering paragraph 126 of the Complaint, Defendants deny the allegations.

12           127. Answering paragraph 127 of the Complaint, Defendants deny the allegations.

13           128. Answering paragraph 128 of the Complaint, Defendants are without sufficient  
14 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
15 denies them.

16           129. Answering paragraph 129 of the Complaint, Defendants deny the allegations.

17           130. Answering paragraph 130 of the Complaint, Defendants deny the allegations.

18           131. Answering paragraph 131 of the Complaint, Defendants incorporate by reference  
19 its responses to the preceding paragraphs on the Complaint as though fully set forth herein.

20           132. Answering paragraph 132 of the Complaint, Defendants incorporate by reference  
21 its responses to the preceding paragraphs on the Complaint as though fully set forth herein.

22           133. Answering paragraph 133 of the Complaint, the paragraph contains a legal  
23 conclusion to which no response is required.

24           134. Answering paragraph 134 of the Complaint, Defendants deny the allegations.  
25  
26  
27  
28

1           135. Answering paragraph 135 of the Complaint, Defendants are without sufficient  
2 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
3 denies them.

4           136. Answering paragraph 136 of the Complaint, Defendants are without sufficient  
5 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
6 denies them.

7           137. Answering paragraph 137 of the Complaint, Defendants deny the allegations.

8           138. Answering paragraph 138 of the Complaint, Defendants deny the allegations.

9           139. Answering paragraph 139 of the Complaint, Defendants deny the allegations.

10          140. Answering paragraph 140 of the Complaint, Defendants deny the allegations.

11          141. Answering paragraph 141 of the Complaint, Defendants deny the allegations.

12          142. Answering paragraph 142 of the Complaint, Defendants incorporate by reference  
13 its responses to the preceding paragraphs on the Complaint as though fully set forth herein.  
14

15          143. Answering paragraph 143 of the Complaint, Defendants deny the allegations.

16          144. Answering paragraph 144 of the Complaint, the paragraph contains a legal  
17 conclusion to which no response is required.

18          145. Answering paragraph 145 of the Complaint, Defendants deny the allegations.

19          146. Answering paragraph 146 of the Complaint, Defendants deny the allegations.

20          147. Answering paragraph 147 of the Complaint, Defendants deny the allegations.

21          148. Answering paragraph 148 of the Complaint, the document speaks for itself and no  
22 response is required.

23          149. Answering paragraph 149 of the Complaint, the website speaks for itself and no  
24 response is required.

25          150. Answering paragraph 150 of the Complaint, the website speaks for itself and no  
26 response is required.  
27  
28

1           151. Answering paragraph 151 of the Complaint, the document speaks for itself and no  
2 response is required.

3           152. Answering paragraph 152 of the Complaint, Defendants admit that BONY is the  
4 trustee of CWABS Inc., Asset-Backed Certificates Series 2007-SD1 trust, but denies the  
5 remaining allegations.

6           153. Answering paragraph 153 of the Complaint, Defendants are without sufficient  
7 knowledge or information to form a belief as to the truth of these allegations, and on that basis,  
8 denies them.

9           154. Answering paragraph 154 of the Complaint, Defendants deny the allegations.  
10

11           155. Answering paragraph 155 of the Complaint, Defendants deny the allegations.

12           156. Answering paragraph 156 of the Complaint, Defendants deny the allegations.

13           157. Answering paragraph 157 of the Complaint, Defendants deny the allegations.

14           158. Answering paragraph 158 of the Complaint, this paragraph is not directed at  
15 Defendants and no response is required.

16           159. Answering paragraph 159 of the Complaint, this paragraph is not directed at  
17 Defendants and no response is required.

18           160. Answering paragraph 160 of the Complaint, this paragraph contains a legal  
19 conclusion and no response is required.

20           161. Answering paragraph 161 of the Complaint, this paragraph is not directed at  
21 Defendants and no response is required.

22           162. Answering paragraph 162 of the Complaint, this paragraph is not directed at  
23 Defendants and no response is required.

24           163. Answering paragraph 163 of the Complaint, this paragraph is not directed at  
25 Defendants and no response is required.

26           164. Answering paragraph 164 of the Complaint, this paragraph is not directed at  
27 Defendants and no response is required.  
28

1           165. Answering paragraph 165 of the Complaint, this paragraph is not directed at  
2 Defendants and no response is required.

3           166. Answering paragraph 166 of the Complaint, this paragraph is not directed at  
4 Defendants and no response is required.

5           167. Answering paragraph 167 of the Complaint, this paragraph is not directed at  
6 Defendants and no response is required.

7           168. Answering paragraph 168 of the Complaint, this paragraph is not directed at  
8 Defendants and no response is required.

9           169. Answering paragraph 169 of the Complaint, Defendants incorporate by reference  
10 its responses to the preceding paragraphs on the Complaint as though fully set forth herein.

11           170. Answering paragraph 170 of the Complaint, Defendants admit the allegations.

12           171. Answering paragraph 171 of the Complaint, this paragraph contains a legal  
13 conclusion to which no response is required.

14           172. Answering paragraph 172 of the Complaint, Defendants admit Plaintiff was in  
15 default when Shellpoint began servicing the mortgage loan. Defendants deny the remaining  
16 allegations.

17           173. Answering paragraph 173 of the Complaint, this paragraph contains a legal  
18 conclusion to which no response is required.

19           174. Answering paragraph 174 of the Complaint, Defendants deny the allegations.

20           175. Answering paragraph 175 of the Complaint, Defendants deny the allegations.

21           176. Answering paragraph 176 of the Complaint, the document speaks for itself and no  
22 response is required.

23           177. Answering paragraph 177 of the Complaint, Defendants deny the allegations.

24           178. Answering paragraph 178 of the Complaint, the document speaks for itself and no  
25 response is required.



1 179. Answering paragraph 179 of the Complaint, the paragraph contains a legal  
2 conclusion to which no response is required.

3 180. Answering paragraph 180 of the Complaint, Defendants deny the allegations.

4 181. Answering paragraph 181 of the Complaint, Defendants deny the allegations.

5 182. Answering paragraph 182 of the Complaint, Defendants deny the allegations.

6 183. Answering paragraph 183 of the Complaint, Defendants incorporate by reference  
7 its responses to the preceding paragraphs on the Complaint as though fully set forth herein.

8 184. Answering paragraph 184 of the Complaint, the paragraph contains a legal  
9 conclusion to which no response is required.

10 185. Answering paragraph 185 of the Complaint, Defendants deny the allegations.

11 186. Answering paragraph 186 of the Complaint, Defendants deny the allegations.

12 187. Answering paragraph 187 of the Complaint, Defendants deny the allegations.

13 188. Answering paragraph 188 of the Complaint, Defendants incorporate by reference  
14 its responses to the preceding paragraphs on the Complaint as though fully set forth herein.

15 189. Answering paragraph 188 of the Complaint, the paragraph contains a legal  
16 conclusion to which no response is required.

17 190. Answering paragraph 190 of the Complaint, Defendants admit that Plaintiff is  
18 seeking injunctive relief, but Defendants deny she is entitled to any such relief or that Defendants  
19 violated any law.

20 191. Answering paragraph 191 of the Complaint, Defendants admit that Plaintiff is  
21 seeking injunctive relief, but Defendants deny she is entitled to any such relief or that Defendants  
22 violated any law.

23 192. Answering paragraph 192 of the Complaint, Defendants deny the allegations.

24 193. Answering paragraph 193 of the Complaint, Defendants deny the allegations.

25 194. Answering paragraph 194 of the Complaint, Defendants deny the allegations.

**PRAYER**

195. Answering the Prayer for Relief and Damages, Defendants deny these allegations and deny that Plaintiff is entitled to any relief whatsoever from Defendants.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

196. Plaintiff's quiet title claim is an equitable claim. *See Kobza v. Tripp*, 105 Wash. App. 90 (2001). The claim is barred, in whole or in part, from obtaining the equitable relief sought in the Complaint by the doctrine of unclean hands in that Plaintiff has violated the principles of conscience and good faith by failing to make all payments on her mortgage loan. The doctrine of unclean hands "bars relief to a plaintiff who has violated conscience, good faith or other equitable principles in his prior conduct, as well as to a plaintiff who has dirtied his hands in acquiring the right presently asserted." *See POM Wonderful LLC v. Coca Cola Co.*, 166 F. Supp. 3d 1085, 1091–92 (C.D. Cal. 2016).

**SECOND AFFIRMATIVE DEFENSE**

**(Equitable Lien)**

197. If there is no valid lien at law, Defendants are entitled to an equitable lien against Plaintiff's real property in order to carry out the intention of the parties to grant a security interest in the real property and prevent an injustice. *See In re Courson*, 409 B.R. 516, 527 (Bankr. E.D. Wash. 2009).

**THIRD AFFIRMATIVE DEFENSE**

**(Setoff)**

198. The claims alleged by Plaintiff are subject to setoff and/or recoupment for all amounts due and owing to Defendants. *See Los Angeles Cty. Employees Ret. Ass'n v. Towers, Perrin, Forster & Crosby, Inc.*, No. CV 01-1351DDP(CTX), 2002 WL 32919576, at \*7 (C.D. Cal. June 20, 2002).

**FOURTH AFFIRMATIVE DEFENSE**

**(Duty to Mitigate)**

199. Plaintiff has a duty to mitigate damages and such damages are barred or limited by her failure to assert debt collection claims upon a reasonable time from discovery. *See Bernsen v. Big Bend Elec. Co-op., Inc.*, 68 Wash. App. 427, 434, 842 P.2d 1047, 1051 (1993).

**FIFTH AFFIRMATIVE DEFENSE**

**(Plaintiff's Fault)**

200. If Plaintiff suffered or sustained any loss, injury, damage or detriment, the same was directly and proximately caused and contributed to by Plaintiff's failure to make her mortgage loan payments when the payments were due, and not by Defendants.

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff takes nothing by reason of the Complaint;
2. For its costs of suit herein;
3. For attorneys' fees to the extent available by law or contract; and
4. For other such relief as this Court may deem just and proper.

DATED: August 30, 2019.

/s/ Donald G. Grant

DONALD G. GRANT, WSBA#15480  
Of Counsel for Defendants The Bank of New York Mellon fka The Bank of New York, as Trustee for the Benefit of the Certificateholders of the CWABS Inc., Asset-Backed Certificates, Series 2007-SD1 and NewRez LLC fka New Penn Financial, LLC dba Shellpoint Mortgage Servicing (erroneously sued as "New Penn Financial LLP, d/b/a Shellpoint Mortgage Servicing, LLC")

1 Donald G. Grant, P.S.  
2 Attorneys and Counselors at Law  
3 Washougal Town Square, Suite 245  
4 1700 Main Street  
5 Washougal, WA 98671  
6 TEL: (360) 694-8488  
7 CELL: (360) 907-3094  
8 FAX: (360) 694-8688  
9 E-MAIL: [don@dongrantps.com](mailto:don@dongrantps.com)  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Answer of Defendants The Bank of New York Mellon  
and NewRez LLC to Second Amended Complaint - 20

Donald G. Grant, P.S.  
Attorneys and Counselors at Law  
Washougal Town Square, Ste 245  
1700 Main Street  
Washougal, WA 98671  
TEL: (360) 694-8488  
FAX: (360) 694-8688  
E-MAIL: [don@dongrantps.com](mailto:don@dongrantps.com)

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the Clerk of the Court on August 30, 2019, using the CM/EFC System which will serve notification of such filing on the following persons:

Arthur E. Ortiz  
6015 CALIFORNIA AVE SW  
NO. 203  
SEATTLE, WA 98136  
206-898-5704  
Email: [arthur@aeolegal.com](mailto:arthur@aeolegal.com)  
Of Counsel for Plaintiff Karen D. Smith

Christina Latta Henry  
HENRY & DEGRAAFF, PS  
Arthur E Ortiz  
787 MAYNARD AVE S  
SEATTLE, WA 98104  
206-330-0595  
Fax: 206-400-7609  
Email: [chenry@HDM-legal.com](mailto:chenry@HDM-legal.com)  
Of Counsel for Plaintiff Karen D. Smith

Michael Steven DeLeo  
PETERSON RUSSELL KELLY PLLC  
1850 SKYLINE TOWER  
10900 NE 4TH ST  
BELLEVUE, WA 98004-8341  
425-462-4700  
Fax: 452-451-0714  
Email: [mdeleo@prklaw.com](mailto:mdeleo@prklaw.com)  
Of Counsel for Defendant MTC Financial, LLC

Nathan F. Smith, WSBA #43160  
Malcolm ♦ Cisneros, Law Corporation  
2112 Business Center Drive  
Irvine, California 92612  
Phone: (949) 252-9400  
Fax: (949) 252-1032  
Email: [nathan@mclaw.org](mailto:nathan@mclaw.org)  
Of Counsel for Defendant Malcolm ♦ Cisneros, A Law Corporation

DATED: August 30, 2019.

/s/ Donald G. Grant  
DONALD G. GRANT

Answer of Defendants The Bank of New York Mellon  
and NewRez LLC to Second Amended Complaint - 21

Donald G. Grant, P.S.  
Attorneys and Counselors at Law  
Washougal Town Square, Ste 245  
1700 Main Street  
Washougal, WA 98671  
TEL: (360) 694-8488  
FAX: (360) 694-8688  
E-MAIL: [don@dongrantps.com](mailto:don@dongrantps.com)